APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,692	09/28/2005	Mario Villena	56290.1501	9301

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EXAMINER
RUHL, DENNIS WILLIAM

ART UNIT	PAPER NUMBER
3689	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
	10/536,692	VILLENA ET AL.
Office Action Summary	Examiner	Art Unit	
	Dennis Ruhl	3689	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>16 November 2009</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>107,113,117-123,125-129,131 and 132</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>107,113,117-123,125-129,131 and 132</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

Applicant's response of 11/16/09 has been entered. The examiner will address applicant's remarks at the end of this office action.

1.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2.   Claims 107,113,117-123,125-129,131,132, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For claim 113,121,127, there is no antecedent basis for "the absolute position data", "relative position data", and for "relative direction data" that are recited in the claimed "using" step. The above mentioned data was canceled from the claim by applicant, but the claim still makes reference to a step of using the "the absolute position data", "relative position data", and for "relative direction data", but none is claimed because it has been canceled from the claim. It is not clear as to what the scope of the claim is because of this problem. This renders the claim indefinite. It is also not clear as to what is meant by reciting that the "the absolute position data", "relative position data", and "relative direction data" are used to create "AVM values for properties of the identified plurality of properties that have sale values that do not reflect actual market values". This does not seem to make any sense. The AVM value is itself an indicator of the market value of a home, so if you are creating an AVM value for a home, how will you know if the sale values do not reflect actual market values, when AVM that is being created is indicative of the market value? The entire paragraph with

respect to the "using" step is considered to be indefinite. For purposes of examination,

this portion of the claim has been interpreted to be reciting that AVM values are updated

and created. Other than that interpretation, it is not clear what is being claimed.

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

4.   This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

5.   Claims 107,113,117,119-122,125-129,132, are rejected under 35 U.S.C. 103(a)

as being unpatentable over Foretich et al. (20030191723).

        For claims 107,113,121,126-128,132, Foretich discloses a system and method

for determining AVM values for properties, such as residential properties. Foretich

determines valuation values by using a computer program contained on a server, see

paragraph 26. Foretich discloses that customers use remote terminals 10,20 (or other

types of communication devices) to access the property valuation system via the Internet 50. See paragraph 25 where this is disclosed. There are databases that contain records on a plurality of residential properties (databases 60 and/or 70). See paragraph 26 where the databases are disclosed. The databases store records relating to residential properties. As an example, see Table 1 where various types of stored property data are disclosed and in paragraph 44 this is referred to as a property record. This property record data includes property identifiers, such as address, listing ID, or even a tax record. Foretich discloses the storing of property identifiers that identify the various properties stored in the databases. With respect to the AVM values being stored in the database, applicant is referred to paragraphs 15 and 162 where this is disclosed. Paragraph 15 discloses "*knowledge base databases created and maintained by the system of the present invention may include valuation values and comparable information previously calculated and used by they system of the present invention*". Paragraph 162 discloses "*Another aspect of the present invention which has been referred to herein is the fact that the system of the present invention, using either local or remote databases, can store various classes of information derived during the valuation process for use in later valuations or other processes. For example, as the system generates valuations, it is preferable that these valuations and data used in connection with these valuations be stored for later use if desired. Actual valuation numbers may be stored and may be employed as comparables for later valuations as appropriate as long as property information is either stored directly in the knowledge base database or can later be retrieved from other databases such as MLS and/or*

public record databases.". Foretich discloses that the AVM values are stored in the
databases.

The step of *performing a computer implemented search query to identify a*
plurality of properties is disclosed in paragraph 41. Paragraph 41 discloses that the
query for the AVM values can be submitted "via a batch process". This inherently
requires that there be a plurality of properties that are being queried for. This paragraph
further discloses that this allows for the processing of multiple valuations as part of a
single batch. This satisfies what is claimed. Also see paragraphs 38 and 39, as well as
paragraphs 42,66, that disclose the use of zip codes that identify a *user defined*
geographic area of interest (the zip code) with respect to the search query. The
inputted information is then used to access a database of properties as claimed. Each
property has real property attributes and each property also has a price associated with
the property.

With respect to *updating and creating the AVM values*, this is taught by Foretich.
When a user requests an AVM value for a given property or for a given batch of
properties, it is calculated and/or updated. When a valuation (AVM) is requested for a
property that has previously had a valuation calculated, it will run that valuation again
with more recent data, and this is an act of *updating the previously stored AVM value*.
Any subsequent second calculation of an AVM value for a given property satisfies the
updating of an AVM value. Foretich creates AVM values when requested to do so,
which satisfies what is claimed as far as updating AVMs and creating AVMs. When an
AVM is being determined, and the last AVM was calculated years ago, this satisfies

what is claimed as far as *creating an AVM for properties that have sale values that do not reflect actual market conditions*. The older the previous AVM is, the more out of date the AVM number will be when compared to actual market conditions that change over time. With respect to the portion of the claim that recites the use of *position data* in the AVM updating and creating step, it is noted that Foretich uses position data, such as county, zip code, state, latitude and longitude, and even the actual subdivision. Due to 112,2nd problems this portion of the claim is considered to be indefinite, but to the extent that applicant is reciting that position data is used in formulating the AVM, Foretich discloses the use of position information in connection with the property valuation. Paragraph 44 discloses the data fields that are used in connection with the valuation. This includes different kinds of position data. This satisfies what is claimed to the extent it is clear what is required in this portion of the claim anyway (due to 112,2nd).

With respect to performing a DVS search to determine DVS values on the *plurality of properties,* where the DVS is based on a modified absolute difference discounting predetermined financial factors, the AVM value, and the sale price, this is not explicitly disclosed.

With respect to the DVS value in an overall sense, it is stated that this is based upon a comparison of the AVM value to the price for a property. This conceptually reads on the "loan to value" ratio that is disclosed in paragraph 006, which is a comparison of the AVM value to a price (sale price or loan price). The examiner again notes that paragraph 162 discusses the storing of AVM values in the databases.

Disclosed is that the valuations are stored "*for later use*" and "*for use in later valuations or other processes*" and "*may be employed as comparables for later valuations as appropriate*". This paragraph teaches the desirability of storing the AVM value so that that AVM value can be used in later processing. Paragraph 15 also discusses the use of AVM values in further processing. The AVM value is the type of data that a person of ordinary skill in the art is going to be concerned with. Anyone buying a house or giving out a financial loan for a house, is concerned with the value of the house itself (valuation/AVM). That idea is just common sense and is something that anyone who buys products of any kind recognizes. As a purchaser of a given product, you take into account the sale price for the product and decide if that price is acceptable for the "value" of the product that you will receive. In other words, a purchaser asks the question "is the product worth the price?". The importance of the AVM value is also evidenced by paragraph 6, where it is disclosed that "*Since the loan to value ratio is of great significance to lenders in making loan decisions as well as in determining applicable loan programs and interest rates, it is almost always necessary for a property valuation to be undertaken in connection with the lending process.*" One of ordinary *skill in the art, such as a mortgage broker, is interested in the comparison of the price for a given property to the value of that property*. In this case, the loan value for a mortgage lender is essentially the "offer for sale" price, as this is the price the seller is willing to sell the property for. *The mortgage lender is making a comparison of the offer for sale (loan value) value to the value of the property (AVM), which is determined by the valuation process that is performed by server 90*. While this comparison is

disclosed as being a ratio and not a difference, it does teach the comparison of the two claimed types of data (price and AVM are compared to each other). The prior art and one of ordinary skill in the art already recognize the importance of comparing the price to the AVM valuation for real estate property. The loan to value ratio is a comparison of the AVM value to a price, namely the loan value (price) which may be equal to the sale price. Clearly, results are given to a user who has submitted a query for properties. With respect to determining the DVS value for a plurality of properties, because the disclosure indicates that the AVM query can be for multiple properties (batches), it would be desirable for a loan officer to be able to also calculate a loan to value comparison for a plurality of properties via the batch process, just like the AVM. This is beneficial in the sense that the loan officer who wants to calculate numerous loan to value ratios would not have to perform this task individually for each and every property. It would have been obvious to one of ordinary skill in the art at the time the invention was made to also determine a DVS value (price compared to the AVM just like a loan to value ratio compares) for the identified plurality of properties automatically within the AVM batch process, so that this would not have to be done one at a time by the loan officer manually. It is considered obvious to one of ordinary skill in the art to also use a batch process to determine loan to value ratio so that a loan officer could process multiple DVS values at one time in an automated manner. It then follows that the results would be provided to the user in the form of some kind of list so the results could be reviewed. This satisfies the recitation that the list be ordered.

Applicant is now reciting that the DVS value is based on a "modified absolute difference" between the price and the AVM, discounting various financial factors. While Foretich discloses that this comparison is disclosed as being a ratio and not a difference, it does teach the comparison of the two claimed types of data (price and AVM). The prior art and one of ordinary skill in the art already recognize the importance of comparing the price to the valuation for real estate property. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Foretich to allow for a search of the database based on <u>a difference</u> between a property's "offer for sale" price and the valuation value for that property, which is also stored in the database. Both the offer price and AVM value are going to be stored in the database, this is disclosed by Foretich. One of ordinary skill in the art at the time the invention was made, taking into account the disclosure of Foretich, and taking into account the level of knowledge that one of ordinary skill in the art is in possession of, would have found it obvious to calculate the <u>difference</u> between the offer price and the valuation (AVM) that is stored in the database as this is just another mathematical way that one can compare the offer for sale to the AVM value, a comparison of which is already recognized in the prior art. Instead of calculating an AVM to price ratio where one number is divided by another number, the comparison can also easily be reflected by a difference where the two numbers are subtracted. Again, applicant is comparing the price to the AVM, and in Foretich the loan officer is calculating a loan to value ratio number, which is also comparing the price to the AVM.

To simply subtract the two numbers as opposed to calculating a ratio is considered to be a difference that would have been obvious to one of ordinary skill in the art.

With respect to the limitation regarding discounting of predetermined financial factors, this is discussed in the specification on page 7. It appears that applicant is claiming that the final DVS number is adjusted (discounted) based on various financial factors. The examiner notes that the act of taking into account various financial factors when formulating an AVM is already being done in Foretich. Foretich specifically discloses that data such as tax records and taxes can be taken into account in connection with the valuation. Also taken into account is whether or not the subject property has a pool. Pools cost money to maintain and are definitely a financial factor one needs to consider. It is already known in the art to take into account various financial factors, such as the taxes for a given property or whether or not the property has a pool (that costs money to maintain). Applicant appears to be claiming that they are adjusting/weighting the final DVS number based on financial factors, whereas in Foretich, those factors are already built into the AVM value itself that is then used in a DVS comparison of the price and AVM value. At the end of the day, whether you account for the financial factors up front in the AVM or on the backside in the DVS, it does not seem to the examiner that this matters. The examiner feels that applicant is just taking into account financial factors for the final DVS number, where the prior art has taken the very same factors into account in the AVM number itself, so it does not appear to the examiner that there is any distinguishing difference. The examiner notes that the idea of taking into account various financial factors is already done in the art, as

evidenced by Foretich, so to take into account the same factors when calculating at a

DVS number, that uses the AVM value that is well known to take into account financial

factors anyway, is considered to be obvious to one of ordinary skill in the art. The prior

art already recognizes taking into account financial factors, so it is considered to be

obvious to one of ordinary skill in the art to take them into account in the DVS number if

you have not already accounted for them in the AVM number. This is considered to be

obvious.

For claims 117,125, whether or not the price was above or below the AVM value

is something that is determined by the individual properties themselves and would be

something that would naturally result from price values and AVM values. The loan

officer may realize that a given property is valued (AVM) less than the price (loan value)

or it may be determined that the property is valued more than the price, which would

indicate the loan possibly should be granted. The situation in claim 117 depend on the

actual data for the properties and would necessarily flow from the prior art.

For claims 119,120,122,129, see paragraph 15 where it is disclosed that the

databases are updated, and this includes the AVM values that are stored in the

database. When market conditions change and when a new valuation is performed,

this results in the updating of the AVM value, where the spatial information may be new

sales data that represents the current condition of the real estate market as far as prices

go. The "additional data" in paragraph 15 that is used to make the AVM values more

accurate satisfies the spatial information.

6.   Claims 118,123,131 is rejected under 35 U.S.C. 103(a) as being unpatentable

over Foretich et al. (20030191723) and further in view of Florance et al. (20040030616).

For claims 118,123,131, not disclosed is that a map with icons is rendered that

provides information on the identified properties as claimed. Florance discloses a real

estate system that provides users with real estate information in response to search

queries submitted by users. The query results are displayed to the user in the form of

maps, as is disclosed in paragraphs 347 and 348, and shown in figure 58. These

paragraphs disclose that the displayed maps allow for the display of the location of the

property on a map by the use of icons and other indicators. Paragraph 348 states that

when the user positions the computer mouse over an icon (that represents a property),

the system displays a pop-up window providing information on the associated property.

It is also disclosed that this feature allows the user to view the overall region in which

the property is location (a desirable feature), as well as the ability to zoom in and out on

the map of the property (another desirable feature). Florance teaches a very desirable

manner by which the results of a property search query may be displayed to the user,

namely the use of maps with icons as claimed. In Foretich, the results of the submitted

query are provided to the customer, it is just not disclosed that this is done by using a

map as applicant has claimed. It would have been obvious to one of ordinary skill in the

art at the time the invention was made to use a map with pop up windows as is

disclosed by Florance, so that the results of the query can be presented in a more user

friendly format to the user, including the resulting AVM value. This is desirable because

it would allow for the viewing of the overall region where the property is located, it would

allow for the zooming in and out, as disclosed by Florance, as well as the convenient use of pop-up windows for the display of property related information, such as the AVM.

Response to Arguments

7.   Applicant's arguments filed 11/16/09 have been fully considered but they are not persuasive. To a large extent, applicant's arguments are moot based on a new grounds of rejection that is necessitated by the most recent amendment. The current claim scope has changed substantially from that of the previous version of the claims, and after careful consideration of what is claimed in view of the prior art, the examiner has concluded that the claims are not in condition for allowance and that a prior art rejection is warranted. While applicant has amended the claims to overcome the new matter and enablement rejections under 112,1st, the new claim scope is not found to be allowable in view of the prior art. Numerous interviews have been conducted in the prosecution of this application, one as recent as 10/29/09 and with respect to an interview for the current office action, the examiner elected to not call applicant's representative to discuss this action because the examiner does not believe that it is productive at this time. At the very least applicant has to be in receipt of this office action before any further interview or discussions could occur. Additionally, with respect to allowable subject matter, the examiner does not have any suggestions to offer to applicant that would be seen as placing the claims in condition for allowance.

8.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis Ruhl whose telephone number is 571-272-6808. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on 571-272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dennis Ruhl/
Primary Examiner, Art Unit 3689